

Serial No. 09/855,189

Docket No.: KCC-14,833

**REMARKS**

Applicants' undersigned attorney thanks the Examiner for her comments. Applicants respectfully request reconsideration of this patent application, particularly in view of the following remarks. Currently, Claims 1-16, 18-25, and 28-60 are pending.

The present invention is directed to a targeted elastic laminate material having a series of continuous elastomeric filaments bonded to two facing materials. The targeted elastic laminate material has at least one high tension zone having a higher basis weight, and one low tension zone having a lower basis weight, both formed from the same polymer material in the same extrusion step. The targeted elastic laminate material may also include a barrier layer positioned between at least part of each of the facing materials. The invention is also directed to disposable garments made from such material.

Also included in the invention is a method of making targeted elastic laminate material. The method involves extruding elastomeric filaments from one or more spinning systems, with some of the elastomeric filaments having a greater basis weight than other elastomeric filaments. The extruded filaments can be cooled and stretched. More particularly, the filaments can be stretched by different amounts, based on their basis weight. The laminate material can be formed by adhering the stretched filaments between two facing materials, and then relaxing the laminate material.

**Supplemental Information Disclosure Statement**

The Examiner has indicated that the co-pending applications cited in the First Information Disclosure Statement filed 29 May 2001, and cited again in the Supplemental Information Disclosure Statement filed 20 December 2002 with copies of the co-pending applications, have not been considered. The Examiner is invited to consider these co-pending applications. Applicants will take no further action under 37 CFR 1.98 to draw the Examiner's attention to these co-pending applications since the co-pending applications were filed on the same date as the present application and, therefore, the co-pending applications are technically not prior art.

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**Claim Rejections - 35 U.S.C. §103****A. Melbye et al. in view of Mleziva et al. and further in view of Suzuki et al.**

The rejection of Claims 1-24 and 49-60 under 35 U.S.C. §103(a) as being unpatentable over Melbye et al. (WO 95/34264) in view of Mleziva et al. (U.S. Patent No. 6,057,024) and further in view of Suzuki et al. (U.S. Patent No. 4,687,477) is respectfully traversed.

Melbye et al. disclose an elastic composite including one or two sheets thermally bonded directly to a multiplicity of molten, extruded elastic strands. Melbye et al. fail to disclose or suggest an additional layer, such as Applicants' barrier layer, positioned between first and second sheets.

Mleziva et al. disclose a composite elastic material including ribbon-shaped elastic elements joined to an extensible layer. Mleziva et al. fail to disclose or suggest high and low tension zones in the composite elastic material, and further fail to disclose or suggest a barrier layer between two facing layers or materials, as in Applicants' Claims 1 and 49.

Suzuki et al. disclose a disposable diaper made using multiple rubber strings that are bonded together to form an elastic member. The resulting diaper includes elastic or rubber strings positioned between a nonwoven fabric and a plastic film. Suzuki et al. fail to disclose a facing layer covering the plastic film. In contrast, Claims 1 and 49 of the present application require a barrier layer to be positioned between at least a portion of each of two facing materials. Although the plastic film in Suzuki et al. may possess the properties of a barrier layer, the plastic film is not positioned between at least a portion of two other layers. Therefore, the plastic film in Suzuki et al. does not disclose or suggest the structure of the targeted elastic laminate material recited in Applicants' Claims 1 and 49.

Neither Melbye et al., Mleziva et al. nor Suzuki et al., alone or in combination, disclose or suggest a laminate including elastomeric filaments positioned between first and second facing sheets, with a barrier layer positioned between at least a portion of each of the facing sheets. The Examiner suggests that it would have been obvious to one of ordinary skill in the art to use the diaper material

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set forth by Suzuki et al. as one of the facing layers in Melbye et al. However, Suzuki et al. disclose a completed diaper configuration, not a material or laminate to be applied to other material applications. Furthermore, by using the diaper material of Suzuki et al. as a facing layer in the composite of Melbye et al., as suggested by the Examiner, a resulting composite would include a nonwoven fabric attached to elastic strands attached to a plastic film attached to another sheet of material attached to more elastic strands attached to yet another sheet of material, which would form a six-layer composite including two different layers of elastic strands. Not only would such a composite be illogical and extremely bulky, it would also be extremely expensive to manufacture, essentially doubling the manufacturing costs of either Melbye et al. or Suzuki et al.

Moreover, there is no suggestion to combine the teachings of either Melbye et al. or Mleziva et al. with the teachings of Suzuki et al. Melbye et al. and Mleziva et al. are both directed to composite elastic materials. In contrast, Suzuki et al. is directed to a disposable diaper, and a method of making such a diaper using specially configured elastic members. Each of these references rely on completely different types of elastic members and methods of applying the elastic members to other elements within the composite or diaper. Thus, these references teach away from the proposed combination thereof.

Furthermore, a combination of the elastic composite of either Melbye et al. or Mleziva et al. with the diaper of Suzuki et al. does not result in a targeted elastic laminate material including elastomeric filaments positioned between first and second facing sheets, with a barrier layer positioned between at least a portion of each of the facing sheets, because none of these references suggests a barrier layer positioned between two facing sheets. Instead, the combination of Melbye et al., Mleziva et al., and Suzuki et al. would result in a diaper including an elastic composite with a plastic film attached to an outer surface of the elastic composite.

For at least the reasons given above, Applicants respectfully submit that the teachings of Melbye et al. in view of Mleziva et al. and further in view of Suzuki et al. fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

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**B. Melbye et al. in view of Mleziva et al. and Suzuki et al. and further in view of Gore**

The rejection of Claims 25-48 under 35 U.S.C. §103(a) as being unpatentable over Melbye et al. in view of Mleziva et al. and Suzuki et al. as applied to Claims 1-24 and 49-60 above, and further in view of Gore (U.S. Patent No. 4,239,578) is respectfully traversed.

Neither Melbye et al., Mleziva et al. nor Suzuki et al. disclose or suggest differentially stretching elastic filaments when making an elastic composite, as recited in Applicants' Claims 25 and 38.

Gore discloses apparatus for inserting elastic strips along leg openings in diapers. When using this apparatus, an elastic strip, or a set of elastic strips, may be stretched to different degrees along the length of the material to which the elastic strips are attached. More particularly, the elastic strips can extend from a front waist area through a crotch area to a back waist area with the elastic strips experiencing greatest stretch in the crotch area and substantial relaxation in both of the waist areas (Col. 5, lines 25-36). Thus, all of the elastic strips undergo the same amount of stretch as one another, with all of the elastic strips being stretched a greater amount in the crotch area than in the waist area.

In contrast, Applicants' Claims 25 and 38 require extruding a plurality of elastomeric first and second filaments, and stretching the first and second filaments by different amounts. Consequently, the elastomeric filaments applied according to the method of Applicants' invention have varying degrees of tension from one another, but may have substantially constant tension along their entire lengths.

Notwithstanding the lack of motivation for combining these references, as explained above, neither Melbye et al., Mleziva et al., Suzuki et al., nor Gore, alone or in combination, disclose or suggest a method of producing a targeted elastic laminate material in which first and second elastomeric filaments are extruded and are stretched by different amounts from one another. The Examiner suggests that it would have been obvious to one of ordinary skill in the art to stretch the filaments of Mleziva et al. to different degrees. By combining the teachings of Gore with Mleziva et al., it would only be obvious to stretch the filaments to different degrees along their

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lengths, but it would not be obvious to stretch two or more filaments by different amounts from one another.

For at least the reasons given above, Applicants respectfully submit that the teachings of Melbye et al. in view of Mleziva et al. and Suzuki et al. and further in view of Gore fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

### Conclusion

Applicants intend to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicants have not addressed in this response, Applicants' undersigned attorney requests a telephone interview with the Examiner.

Applicants sincerely believe that this Patent Application is now in condition for allowance and, thus, respectfully request early allowance.

Respectfully submitted,



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